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MONTANA LEGISLATIVE HISTORY

Chapter 272 19 95

Bill H 263 S _____ Original bill & history / ___C

H. Committee on Nat. Res			S. Committee on Nat		
Hearing Date(s)	1/25	/ C	Hearing Date(s)	3/1	/ C
	2/2	/ C		3/5	/ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ___Yes / ___No

Committee _____ Report _____

(2) A violation of this section is punishable pursuant to 37-69-324.

Section 3. Section 37-69-320, MCA, is amended to read:

"37-69-320. License *and endorsement* discipline. (1) The board may revoke, suspend, restrict, censure, or apply any other disciplinary treatment contemplated by 37-1-136 to any occupational licensee *or endorsee* under this chapter for any one or more of the following causes:

(a) performance of plumbing work in the field of plumbing that is below the standards established by the Uniform Plumbing Code:

(b) inadequate supervision that causes or allows plumbing work in the field of plumbing that is below the standards established by the Uniform Plumbing Code;

(c) material deceit in procuring, attempting to procure, or aiding and abetting the procurement of an occupational license *or endorsement* to practice in the field of plumbing;

(d) unfitness to provide services in the field of plumbing by reason of negligence or addiction to the use of habit-forming drugs;

(e) physical or mental incompetence ~~which~~ *that* impairs the licensee's *or endorsee's* ability to deliver adequate service in the field of plumbing;

(f) willful or repeated violation of this chapter or rules adopted ~~hereunder~~ *under this chapter* or willful or repeated violation of Title 50, chapter 60, part 5, or rules adopted ~~thereunder~~ *under that part*; or

(g) unprofessional practice-related conduct as defined by rules adopted by the board.

(2) Any licensee *or endorsee* disciplinary action under the jurisdiction of the board ~~shall~~ *must* be conducted as a contested case under the provisions of the Montana Administrative Procedure Act."

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 37, chapter 69, and the provisions of Title 37, chapter 69, apply to [sections 1 and 2].

Section 5. Coordination instruction. If [this act] and House Bill No. 518 are both passed and approved and if House Bill No. 518 repeals 37-69-320, then the repeal of 37-69-320 in House Bill No. 518 is void.

Approved March 24, 1995

CHAPTER NO. 222

[HB 263]

AN ACT CLARIFYING THE TRUST RESPONSIBILITIES OF THE BOARD OF LAND COMMISSIONERS; AND AMENDING SECTION 77-1-202, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-1-202, MCA, is amended to read:

"77-1-202. Powers and duties of board. (1) The board shall exercise general authority, direction, and control over the care, management, and disposition of state lands and, subject to the investment authority of the board of investments, the funds arising from the leasing, use, sale, and disposition of those lands or otherwise coming under its administration. In the exercise of these powers, the guiding ~~rule and~~ principle is that these lands and funds are held in trust for the support of education and for the attainment of other worthy objects helpful to the well-being of the people of this state *as provided in The Enabling Act*. The board shall administer this trust to secure the largest measure of legitimate and reasonable advantage to the state.

(2) It is consistent with the powers and duties provided in subsection (1) that the people are entitled to general recreational use of state lands to the extent that the trusts are compensated for the value of the recreation.

(3) When acquiring land for the state, the board shall determine the value ~~thereof~~ *of the land* after an appraisal by a qualified land appraiser."

Approved March 24, 1995

CHAPTER NO. 223

[HB 274]

AN ACT GRANTING THE DEPARTMENT OF STATE LANDS BROADER DISCRETION TO EXPEDITE SALES OF STATE TIMBER IN EMERGENCY SITUATIONS AND LIMITED ACCESS OPPORTUNITY SITUATIONS; EXEMPTING CERTAIN LIMITED ACCESS OPPORTUNITY TIMBER SALES FROM THE BID PROCESS REQUIREMENTS; EXEMPTING CERTAIN EMERGENCY AND LIMITED ACCESS OPPORTUNITY TIMBER SALES FROM THE MONTANA ENVIRONMENTAL POLICY ACT; AND AMENDING SECTION 77-5-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-5-201, MCA, is amended to read:

"77-5-201. Sale of timber. (1) Under the direction of the board, the department may sell the timber crop and other crops of the forests after examination, estimate, appraisal, and report and under ~~such~~ *any* rules ~~as may be~~ established by the board.

(2) Timber proposed for sale in excess of 100,000 board feet ~~shall~~ *must* be advertised in a paper of the county in which the timber is situated for a period of at least 30 days, during which time the department ~~shall~~ *must* receive sealed bids up to the hour of the closing of the bids, as specified in the notice of sale.

(3)*(a)* In cases of emergency due to fire, insect, fungus, parasite, or blowdown *or in cases when the department is required to act immediately to take advantage of access granted by permission of an adjoining landowner*, timber proposed for sale not in excess of 1 million board feet may be advertised by invitation to bid for a period of not less than 10 days. The department may reject any or all bids,

HB 261 INTRODUCED BY WENNEMAR, ET AL.

ALLOW AN INCORPORATED MUNICIPALITY OR COUNTY TO ADOPT AN ORDINANCE FOR RENT STABILIZATION FOR RENTAL SPACES IN MOBILE HOME PARKS

1/18	INTRODUCED		
1/18	FIRST READING		
1/18	REFERRED TO LOCAL GOVERNMENT		
2/16	HEARING		
2/16	TABLED IN COMMITTEE		
2/23	MISSED TRANSMITTAL DEADLINE DIED IN COMMITTEE		

HB 262 INTRODUCED BY MENAHAN, ET AL.

PROVIDE FOR SPECIAL WILD BUFFALO DISEASE CONTROL LICENSES AND FOR REGULATION OF THOSE LICENSES

1/18	INTRODUCED		
1/18	FIRST READING		
1/18	REFERRED TO FISH & GAME		
1/19	FISCAL NOTE REQUESTED		
1/24	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
2/14	HEARING		
2/16	TABLED IN COMMITTEE		
2/20	MOTION FAILED TO TAKE FROM COMMITTEE AND PLACE ON 2ND READING	49	50
2/23	MISSED TRANSMITTAL DEADLINE DIED IN COMMITTEE		

HB 263 INTRODUCED BY CURTISS, ET AL.

CLARIFY TRUST RESPONSIBILITIES OF THE BOARD OF LAND COMMISSIONERS

1/18	INTRODUCED		
1/18	FIRST READING		
1/18	REFERRED TO NATURAL RESOURCES		
1/25	HEARING		
2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	67	33
2/13	3RD READING PASSED	67	31
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO NATURAL RESOURCES		
3/01	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED		
3/11	2ND READING CONCURRED	36	3
3/13	MOTION FAILED TO TAKE FROM 3RD READING AND PLACE BACK ON 2ND READING	21	28
3/13	3RD READING CONCURRED	34	15
	RETURNED TO HOUSE		
3/15	SIGNED BY SPEAKER		
3/18	SIGNED BY PRESIDENT		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR CHAPTER NUMBER 222 EFFECTIVE DATE: 10/01/95		

House BILL NO. 263

INTRODUCED BY Curtiss

Hamlin Brainard

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE TRUST RESPONSIBILITIES OF THE BOARD OF LAND COMMISSIONERS; AND AMENDING SECTION 77-1-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-1-202, MCA, is amended to read:

"**77-1-202. Powers and duties of board.** (1) The board shall exercise general authority, direction, and control over the care, management, and disposition of state lands and, subject to the investment authority of the board of investments, the funds arising from the leasing, use, sale, and disposition of those lands or otherwise coming under its administration. In the exercise of these powers, the guiding ~~rule and~~ principle is that these lands and funds are held in trust for the support of education and for the attainment of other worthy objects helpful to the well-being of the people of this state as provided in sections 15 through 17 of The Enabling Act. The board shall administer this trust to secure the largest measure of legitimate and reasonable advantage to the state.

(2) It is consistent with the powers and duties provided in subsection (1) that the people are entitled to general recreational use of state lands to the extent that the trusts are compensated for the value of the recreation.

(3) When acquiring land for the state, the board shall determine the value ~~thereof~~ of the land after an appraisal by a qualified land appraiser."

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **Rep. Dick Knox**, Chairman, on January 25, 1995, at 3:00 PM.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 263, HB 274
Executive Action: HB 137 Do Pass as Amended
HB 162 Do Pass as Amended

Tape 1, Side A

HEARING ON HB 263

Opening Statement by Sponsor:

REP. AUBYN CURTISS, House District 81, Fortine, said she was pleased to sponsor HB 263 on behalf of Montana Public Schools and eight other institutions that were granted land by the U. S. Congress upon Montana's statehood in 1889. Numerous attempts have been made over the years to divert proceeds from trust lands and many special interest groups have tried to infuse their own expectations into the management of these lands. **REP. CURTISS** referred to the 1976 Opinion of the Montana Attorney General and quoted in part "The case involved an Act of the Legislature to designate portions of trust land as natural areas, in other words, parks or wilderness areas. The Attorney General ruled the state would commit a breach of trust under the Enabling Act and the state Constitution unless it compensated the school trust in money for the full appraised value of the lost assets. The Montana Supreme Court has long held that school lands as well as their proceeds and income constituted a trust. Thus, the Enabling Act must be strictly construed and its grants and property devoted exclusively for the stated purposes." **REP. CURTISS** also referred to the case of the Department of State Lands v. Pettibone from which she quoted excerpts of Montana Supreme Court decisions and the citation on the Eighth Circuit Court Decision. **EXHIBIT 1**

Proponents' Testimony:

John Hebnes, Seeley Lake Elementary School, supported HB 263.

Candace Torgerson, Montana Cattlewomen's Association, said HB 263 will provide a better focus for the management of state lands.

Jennifer Hill, Montana Stockgrowers Association and Montana Wool Growers Association, supported HB 263.

Ed Regan, Forester, Brand S Lumber Co., Member, Townsend School Board. Written testimony. **EXHIBIT 2**

Cary Hegreberg, Montana Wood Products Association. Written testimony. **EXHIBIT 3**

Loren Frazier, School Administrators of Montana, supported HB 263.

Jim Foster, Montana Rural Education Association, supported HB 263.

Opponents' Testimony:

Steve Kelly, Friends of the Wild Swan, said there are alternatives to timber harvesting that have never been explored. One alternative would be mushroom production on state lands.

More mushrooms can be grown per acre than trees. Trees are being grown on sites that are not suitable.

Informational Testimony: None

Tape 1, Side B

Questions From Committee Members and Responses:

REP. JON ELLINGSON said he couldn't find guidance in the Enabling Act
for managing state lands and asked **REP. CURTISS** if there was anything. **REP. CURTISS** said it could be found on page 23 of the Enabling Act.

REP. HAL HARPER said the Enabling Act notes show that some of the school trust funds have been used to repair, renovate and reconstruct old buildings and to install a roll call machine in the chambers of the House of Representatives. **REP. HARPER** asked **REP. CURTISS** if it was her intent that some of the school trust money would be used in these ways. **REP. CURTISS** referred to page 22, section 17, paragraph 4, of the Enabling Act, that set aside 150,000 acres of state lands for public buildings at the Capitol of the state.

REP. HARPER asked **Bud Clinch, Commissioner, Department of State Lands,** if there was a list of the current amount of revenue in each of the state land trust funds. **Mr. Clinch** said he could provide a complete accounting of the exact acreage and revenue streams over whatever period of history **REP. HARPER** would like to know about. **REP. HARPER** asked **Mr. Clinch** if he was correct in his assumption that if the legislature wanted to renovate the Capitol Building it could order that logging be done in the tracts that are hooked to the Capitol Building. **Mr. Clinch** told **REP. HARPER** that he was very perceptive and said he could provide him with a map that identifies the specific sections that were dedicated to each of the trusts.

Tape 2, Side A

Closing by Sponsor:

REP. CURTISS said she loved the outdoors and enjoys the multiple uses of state lands. By passing HB 263 those other uses will not be precluded.

HEARING ON HB 274

Opening Statement by Sponsor:

REP. DOUG WAGNER, House District 83, Hungry Horse. Written testimony. **EXHIBIT 4**

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL DATE 1-25-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson	✓		
Rep. David Ewer	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss	✓		
Rep. Doug Wagner	✓		

EXH
DATE 1-23-93
HB 263

proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

§ 8. That the constitutional convention which may assemble in South Dakota shall provide by ordinance for resubmitting the Sioux Falls constitution of eighteen hundred and eighty-five, after having amended the same as provided in section five of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, eighteen hundred and eighty-nine; but if said constitutional convention is authorized and required to form a new constitution for South Dakota it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection at an election to be held in said proposed state on the said first Tuesday in October. And the constitutional conventions which may assemble in North Dakota, Montana and Washington, shall provide in like manner for submitting the constitutions formed by them to the people of said proposed states, respectively, for ratification or rejection at elections to be held in said proposed states on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the secretary of each of said territories, who, with the governor and chief justice thereof, or any two of them, shall canvass the same; and if a majority of the legal votes cast shall be for the constitution the governor shall certify the result to the president of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of said constitution, articles, propositions, and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the president of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed state governments as herein provided shall be deemed admitted by congress into the Union under and by virtue of this act on an equal footing with the original states from and after the date of said proclamation.

§ 9. That until the next general census, or until otherwise provided by law, said states shall be entitled to one representative in the house of representatives of the United States, except South Dakota, which shall be entitled to two, and the representatives to the fifty-first congress, together with the governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states, respectively, are admitted into the Union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

§ 10. That upon the admission of each of said states into the Union sections numbered sixteen and thirty-six in every township of said proposed states, and where such section, or any parts thereof, have been sold or

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otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such indemnity lands to be selected within said states in such manner as the legislature may provide, with the approval of the secretary of the interior; Provided, That the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

Cross-References

Management of school lands, Art. X, sec. 4, Mont. Const.
Disposition of income from lease of school lands, Art. X, sec. 5, Mont. Const.
School districts -- property, Title 20, ch. 6, part 6.

Case Notes

Operation and Effect: This is a general granting clause and shows clearly the interest of the Congress in the common schools of the newly admitted state. Texas Pacific Coal & Oil Co. v. St., 125 M 258, 234 P2d 452 (1951).

§ 11. That all lands granted by this act shall be disposed of only at public sale after advertising--tillable lands capable of producing agricultural crops for not less than ten dollars ($10.00) per acre, and lands principally valuable for grazing purposes for not less than five dollars ($5.00) per acre. Any of the said lands may be exchanged for other lands, public or private, of equal value and as near as may be of equal area, but if any of the said lands are exchanged with the United States such exchange shall be limited to surveyed, non-mineral, unreserved public lands of the United States within the state.

Except as otherwise provided herein, the said lands may be leased under such regulations as the legislature may prescribe. Leases for the production of minerals, including leases for exploration for oil, gas, and other hydrocarbons and the extraction thereof, shall be for such term of years and on such conditions as may be from time to time provided by the legislatures of the respective states; leases for grazing and agricultural purposes shall be for a term not longer than ten years; and leases for development of hydroelectric power shall be for a term not longer than fifty years.

The state may also, upon such terms as it may prescribe grant such easements or rights in any of the lands granted by this act, as may be acquired in privately owned lands through proceedings in eminent domain; provided, however, that none of such lands, nor any estate or interest therein, shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, has been paid or safely secured to the state.

With the exception of the lands granted for public buildings, the proceeds from the sale and other permanent disposition of any of the said lands and from every part thereof, shall constitute permanent funds for the support and maintenance of the public schools and the various state institutions for which the lands have been granted. Rentals on leased land, proceeds from the sale of timber and other crops, interest on deferred payments on land sold, interest on funds arising from these lands, and all other actual income, shall be

EXHIBIT 2
DATE 1-25-95
HB 263

HB 263

NATURAL RESOURCES COMMITTEE

MR. CHAIRMAN, FOR THE RECORD, MY NAME IS ED REGAN AND I RESIDE IN TOWNSEND. I AM A PROFESSIONAL FORESTER WITH BRAND-S LUMBER COMPANY, AND I AM ALSO A MEMBER OF THE TOWNSEND SCHOOL BOARD. I SUPPORT HB-263 IN BOTH CAPACITIES.

THERE ARE LITERALLY MILLIONS OF ACRES OF FEDERAL LAND IN MONTANA THAT ARE MANAGED UNDER MULTIPLE USE MANDATES, FOR THE BENEFIT OF THE GENERAL PUBLIC. IN RECENT YEARS, MULTIPLE USE HAS BEEN INTERPRETED TO MEAN ALMOST EVERYTHING BUT TIMBER MANAGEMENT. WE HAVE NATIONAL PARKS, WILDERNESS AREAS, NATIONAL WILDLIFE PRESERVES, AND SPECIAL MANAGEMENT AREAS LIKE THE ELKHORNS RIGHT OUTSIDE HELENA. NEARLY ALL RESOURCE DEVELOPMENT IS OFF LIMITS IN THOSE MILLIONS OF ACRES.

IN FACT, DESPITE ALL THE CLAIMS OF RAMPANT LOGGING ON OUR NATIONAL FOREST, LESS THAN 50% OF THAT ACREAGE IS DESIGNATED SUITABLE FOR TIMBER HARVEST, AND MUCH OF THAT IS ROADLESS LAND WHICH HAS NEVER BEEN LOGGED

THE SCATTERED SECTIONS OF STATE TRUST LANDS WERE ALSO DESIGNATED TO HAVE A PRIMARY USE. THAT IS TO GENERATE REVENUE FOR PUBLIC SCHOOLS. IF WE CAN HAVE MILLIONS OF ACRES WITHDRAWN FROM RESOURCE DEVELOPMENT, IS IT REALLY SO WRONG TO SET ASIDE TRUST LANDS FOR MANAGEMENT ACTIVITIES THAT GENERATE REVENUE AND JOBS? AS A FORESTER I DON'T THINK SO. AS A SCHOOL BOARD MEMBER WITH KIDS IN SCHOOL, I DON'T THINK SO.

THAT IS WHY I AM ASKING YOU TO SUPPORT HB-263 TO CLARIFY THE ROLE OF OUR STATE TRUST LANDS. THANK YOU.

ED REGAN

Edward Regan

EXHIBIT 3
DATE 1-25-95
HB 263

HB 263

Testimony of Cary Hegreberg, Montana Wood Prod. Assoc.

Mr. Chairman, members of the committee, for the record, my name is Cary Hegreberg, executive vice president of Montana Wood Products Association.

The members of our association support this bill because it provides much-needed clarification on the management of state trust lands. In recent years, the state Board of Land Commissioners, and the Department of State Lands have been besieged by a myriad of demands from various interest groups, ours included. It seems everyone has a different vision of what these lands should deliver.

The current statute invites controversy. It encourages polarization of viewpoints by using such nebulous language as, "other worthy objects helpful to the well-being of this state." Further, as Representative Curtiss conclusively pointed out, the current statute--if interpreted in the manner preferred by opponents to this bill--is clearly unconstitutional and violates the intent of the Enabling Act.

In fact, as you listen to the opponents of this bill, I encourage you to refer back to the case law citations Rep. Curtiss provided. When an opponent says that state trust lands should provide recreational opportunity which is hindered by timber harvesting or cattle grazing, refer to the case law and ask that individual if he/she is willing to compensate the trust with full, fair market value. Some opponents to this bill will probably balk if you ask them if recreational access should be sold at competitive bid like timber is.

The truth is, the things opponents to this bill say they want--wildlife habitat, quality fisheries, recreational experiences--are not mutually exclusive with resource development. The best hunting in Montana is on private lands which are managed primarily for resource production.

The members I represent are not faceless corporations. Many are third generation Montanans who employ dozens of neighbors in a family owned sawmill, not unlike a family farm. They have watched our federal lands, under a multiple use mandate, literally become off limits to anything not politically correct to environmental advocates.

Last week when I testified before this committee on behalf of a U.S. Forest Service Museum in Missoula, I had to choke back the urge to inquire if the first artifact on display would be a timber sale contract.

We're asking you, as the ultimate trustee of these lands, to stay focused on the objective so they don't meet the same fate as our federal lands. Last week, an Idaho District Court issued an injunction against all timber sales, grazing activities, and mining in the Payette, Boise, Nez Perce, Salmon, Sawtooth, and Challis National Forests. The court was interpreting federal statutes applicable to national forest management.

Just to convey the gravity of the situation, I'd like to quote excerpts from the letter written to forest supervisors, explaining the decision:

> "In order to respond to the District Court of Idaho injunction, you should immediately commence the following actions to comply with the Court's order: 1) Suspend all timber sales. Contracting officers should suspend all timber sale operations. they should permit no activities which would involve felling, yarding, loading, road construction, or hauling within affected watersheds. 2) Suspend all livestock grazing; 3) Suspend all roadbuilding; 4) Suspend all mining activities. You will notify all permitees, contractors, and operators, through certified letter, of the Court's injunction and Forest Service suspension of activities in accordance with the injunction. By January 25, 1995, (that's today folks) report to me of the specific steps taken to carry out the suspension of the identified activities."j

Signed, David Jolly, Region 1 Forester, Dale Bosworth, Region 4 Forester.

Members of the committee, what is to prevent that type of injunction on state lands? Especially with vague statutes? The organization which has sued DSL over several timber sales is also petitioning to list the bull trout under the endangered species act. A representative of that group testified last week against HB 201. Yesterday, we learned that same group has filed a lawsuit against the Flathead National Forest similar to the one which just shut down six national forests in Idaho.

All we're asking is that you not let our state trust lands fall prey to the same legal maneuvering as federal lands have succumbed to. We urge a do pass recommendation on HB 263.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. HB 263

DATE 1-25-95 SPONSOR(S) Rep. Curtiss

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Ed REGAN	TOWNSEND - Self			X
John Hesnes	Seeley Lake Elem			X
Cary Hegreberg	MT Wood Prod. Assoc.			X
Don Allen	MWPA			✓
Steve Kelly	Friends of the Wild Swan		X	
Loren FRAZier	S AM			X
KEITH OLSON	MT. LOGGING ASSN			✓
Carla Torgerson	MT. Cattlewomen's Assn			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, Chairman, on February 1, 1995, at 3:00 PM.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 341
Executive Action: HJR 10 DO PASS AS AMENDED
HB 274 DO PASS AS AMENDED
HB 263 DO PASS AS AMENDED
HB 292 DO PASS

Tape 1, Side A

REP. KNOX said consistency needs to be established for the protection of the environment and for the regulated community as well. It is very important that the regulated community understands what the regulations are and how they are going to be enforced. Without that certainty it makes it extremely difficult for the regulated community to operate. It also provides a degree of uncertainty in the minds of the public which also makes it very difficult for the regulated community.

Vote: Voice vote was taken. **Motion carried 17 to 1. REP. WAGNER opposed.**

Tape 2, Side B

EXECUTIVE ACTION ON HB 274

Motion: REP. DOUG WAGNER MOVED HB 274 DO PASS.

Discussion:

REP. WAGNER offered the first amendment to HB 274.

Michael Kakuk said if the committee members liked the discussion draft they received Monday they would like **REP. WAGNER'S** amendments.

A second amendment from the Montana Stockgrowers Association was distributed to the committee.

Motion/Vote: REP. WAGNER MOVED THE FIRST SET OF AMENDMENTS TO HB 274. Voice vote was taken. **Motion carried unanimously.**

Motion/Vote: REP. WAGNER MOVED THE SECOND SET OF AMENDMENTS TO HB 274. Voice vote was taken. **Motion carried unanimously.**

Motion/Vote: REP. WAGNER MOVED HB 274 DO PASS AS AMENDED. Voice vote was taken. **Motion carried unanimously.**

EXECUTIVE ACTION ON HB 263

Motion: REP. AUBYN CURTISS MOVED HB 263 DO PASS.

Discussion:

REP. CURTISS read a statement to the committee denying any attempt to refocus the management of state trust lands on the Constitutional mandate of generating revenue for public schools, or attempting to mask the intent of HB 263. **EXHIBIT 1**

REP. BOB RANEY said **REP. CURTISS** stated that the intent of the bill was to clarify that state trust lands are to be managed in a

way that benefits the Constitutional beneficiaries and not the special interest groups that would like to influence the management policies of these lands. **REP. RANEY** said HB 263 and numerous other bills are for a special interest group, namely, the wood products industry. That industry is making a statement that it is going to log the land and that will be the primary use of forest land. No other action is being allowed to determine if there is a better use for the land.

REP. BILL TASH said the bill is not about exploitation or extraction of a resource from the school trust land, it is about a renewable resource. It is not about maximizing the returns from school trust lands for the school trust fund, it is about optimizing the returns by satisfying sustained yields. The children that will take advantage of the school trust fund should be considered a special interest group. The Constitution and the Enabling Act demands that the state of Montana consider these children as a special interest group that is very much in need of proper management of the school trust lands that will optimize the return of resource and resource income.

Motion: **REP. HAL HARPER MOVED AMENDMENTS TO HB 263.**

Discussion:

REP. HARPER said the purpose of the bill is to specify the Enabling Act in terms of guidance and clarification for the Board of Land Commissioners. Sections 10 through 17 of the Enabling Act should be included in the bill. He explained his amendment.

REP. ROBERT STORY asked **John North, Legal Counsel, Department of State Lands,** to comment on the amendment. **Mr. North** said some of the language in the amendment would change the intent of the bill considerably.

REP. HARPER withdrew his amendment.

Tape 3, Side B

Motion: **REP. STORY MOVED AN AMENDMENT TO HB 263.**

Discussion: **REP. STORY** explained the amendment.

REP. JON ELLINGSON said he was uncomfortable about referencing a limited number of sections in the Enabling Act without referencing the entire Act. He offered an amendment that referenced the entire Enabling Act.

REP. CURTISS asked **Mr. North** to comment on the amendment. **Mr. North** said **REP. ELLINGSON'S** amendment would accomplish the purpose of the bill very well. **REP. STORY'S** amendment would have made the bill inclusive because it would have referenced all the sections in which other worthy objects are contained but in case

a section is left out **REP. ELLINGSON'S** amendment would pick that up.

REP. STORY withdrew his amendment.

Motion/Vote: **REP. ELLINGSON MOVED HIS AMENDMENT TO HB 263.** Voice vote was taken. **Motion carried unanimously.**

Motion/Vote: **REP. ELLINGSON MOVED HB 263 DO PASS AS AMENDED.** Voice vote was taken. **Motion carried 13 to 5.**

EXECUTIVE ACTION ON HB 292

Motion: **REP. DANIEL FUCHS MOVED HB 292 DO PASS.**

Tape 3, Side B

Discussion:

REP. BILL TASH said he was in favor of HB 292 because there does need to be some accountability in regards to certificates of surveys in both state and local departments.

Vote: Voice vote was taken. **Motion carried 17 to 1.**

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL DATE 2-1-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson	✓		
Rep. David Ewer	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss	✓		
Rep. Doug Wagner	✓		

NATURAL RESOURCES COMMITTEE
2/1/95

I VOTE THE FOLLOWING BILLS

HJR 10 - YES
HB 274 - YES (NO ON ALL AMENDMENTS)
HB 263 - YES (NO ON ALL AMENDMENTS)
HB 292 - YES

Scott Hayden

HOUSE STANDING COMMITTEE REPORT

February 2, 1995

Mr. Speaker: We, the committee on **Natural Resources** report that **House Bill 263** (first reading copy -- white) **do pass as amended.**

Signed: Dick Knox
Dick Knox, Chair

And, that such amendments read:

1. Page 1, lines 15 and 16.
Following: "in" on line 15
Strike: "sections" through "of" on line 16

-END-

Committee Vote:
Yes 13, No 5.

280902SC.Hbk

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 1, 1995, at 3:00 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 274, HB 263, HB 381, HB 162
Executive Action: None

(Tape: 1; Side: A)

HEARING ON HB 274

Opening Statement by Sponsor:

REPRESENTATIVE DOUG WAGNER, HD #83, HUNGRY HORSE, told the committee he was introducing HB 274 to assist the Department of State Lands (DSL) in managing its numerous tracts of landlocked trust lands for optimum return **(EXHIBIT #1).**

compliance with the federal regulations that were identified in a deficiency letter from the Office of Surface Mining.

The second purpose was changing timeframes for renewal of a 5-year permit, resulting from situations recently experienced by the department. The proposed change would allow sufficient time for public involvement.

Jeff Barber, Northern Plains Resources Council, agreed with **REPRESENTATIVE TAYLOR** that the most important part of the bill was the permitting timeframe change. Twice in the last three years his organization had encountered a problem with temporary renewals, and he urged the committee to concur in the bill.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

REPRESENTATIVE TAYLOR said that even though the mining industry had not attended the hearing she had considerable contact with the mines in her area concerning this bill and she thought they felt they had a good working relationship with DSL and supported this bill.

HEARING ON HB 263

Opening Statement by Sponsor:

REPRESENTATIVE AUBYN CURTISS, HD #81, FORTINE, said she was pleased to carry this bill that would clarify the trust responsibilities of the Board of Land Commissioners **(EXHIBIT #5).**

Proponents' Testimony:

George Bailey, Montana Association of School Superintendents, told the committee he was a native Montanan, educated entirely in Montana and loved this state. His organization supported the bill because it states what should have been stated many years ago. The trust should be managed in a responsible manner. There was no other choice. Every environmental law in Montana would be followed under this bill.

John Hebnes, Superintendent of the Seeley Lake Elementary School, said he supported the bill because it would increase money for the school trust **(EXHIBIT #6).**

Cary Hegreberg, Montana Wood Products Association, supported the bill because it would provide much needed clarification on the management of state school trust lands.

Ed Regan, Brand-S Lumber, Townsend, supported the bill because it would provide that school trust lands be managed for the benefit of public schools **(EXHIBIT #7).**

John Youngberg Montana Farm Bureau, supported optimizing return on state school trust lands and urged support for HB 263.

Opponents' Testimony:

John Gatchell, Montana Wilderness Association, opposed the bill as being anti-public and anti-multiple use **(EXHIBIT #8 & 8A).**

Steve Kelly, Friends of the Wild Swan, opposed the bill because it would not benefit the long-term health and productivity of the state forests or the educational system **(EXHIBIT #9).**

Tom France, Attorney for the National Wildlife Federation, opposed the bill because he thought the language of the bill was ambiguous and the state needs some discretion in the management of state school trust lands.

Allen Rollo, Montana Wildlife Federation, opposed the bill because it did not consider the bigger picture of the state school trust lands.

(Tape: 2; Side: A)

Janet Ellis, Montana Audubon Legislative Fund, also opposed the bill.

Jim Jensen, Executive Director, Montana Environmental Information Center, agreed that it was a bad bill.

Stan Frasier, Prickly Pear Sportsmen's Association, Helena, opposed the bill because it appeared to him that the bill would favor the timber industry.

Jim Emerson opposed the bill because cutting timber on state lands adjoining his property would decrease his property values; also, he liked forests.

Questions From Committee Members and Responses:

SENATOR CRISMORE asked what happened to the increase in the state lands recreational use fee. **Mr. Clinch** said the task force on

use of state lands had recommended a $20 fee for residents and a $50 fee for nonresidents; his department took that recommendation to the State Land Board and the board cut the recommended fee to $10. Hearings were held, the results reported back to the board, and at the last meeting of the board action on the fee increase was postponed.

SENATOR CRISMORE asked **Mr. Rollo** if the fair market value of a day's hunting on state lands had been established, and how his group would feel about raising the price.

Mr. Rollo said he didn't know what the Wildlife Federation would agree was a fair price.

SENATOR CRISMORE asked if the Wildlife Federation had opposed a $25/day fee at any public meetings. **Mr. Rollo** said they did oppose it because they thought grazing fees and cabin site fees should be raised commensurately.

SENATOR BROOKE asked about **Mr. Kelly's** statement concerning the programmatic EIS that had been delayed. **Mr. Flowers** said he hadn't had a chance to read **Mr. Kelly's** statement but did not agree that the EIS was purposely delayed. He said six different alternatives for the management of trust lands had been developed.

SENATOR BROOKE asked **Mr. North** if sales were locked in, as timber prices fluctuate. **Mr. North** said there was a case in Washington where a timber sale was let and the price of timber subsequently dropped. The Washington legislature passed a law allowing their land board to forgive the values in the contract. However, using the school trust concept, the Supreme Court of the State of Washington held that was an unconstitutional act, as the state, acting as trustee, was bound to obtain the contracted value. He said he thought that would also be the result in Montana, whether or not this bill passed.

CHAIRMAN GROSFIELD asked **Mr. Kelly** if he had meant the Department of State Lands had an agenda for the complete liquidation of old growth state forests. **Mr. Kelly** said that appeared to be the current direction.

CHAIRMAN GROSFIELD asked **Commissioner Clinch** to respond to that statement. **Mr. Clinch** said there was no agenda along those lines. The harvest rate had varied considerably over the last 10 years. At no time in the history of state forests has the harvest rate approached the sustained yield level.

CHAIRMAN GROSFIELD said he had originally thought the bill didn't do much because he thought the department and board would act very much the same with or without this bill, but the hearing indicated the bill would do a lot.

Mr. Clinch said the Enabling Act governed the department's actions. The bill was not specific to the timber industry, but spanned a much broader horizon including grazing and agricultural activities. Timber sales are just one aspect of DSL's management duties.

CHAIRMAN GROSFIELD said **Mr. Clinch** had stated the department was directed by the Enabling Act to consider eight worthy objects. **Mr. Clinch** said the eight objects have always been considered to mean the eight trusts for granted land.

CHAIRMAN GROSFIELD said there were some recent cases where "other worthy objects" included other things and multiple use had evolved from that interpretation. The judiciary had expanded the interpretation of "other worthy objects" and HB 263 was aimed at returning to the traditional interpretation, which was the way the Department of State Lands had always operated.

Mr. Clinch commented that HB 263 did not reduce multiple use; it simply stated that management purposes on school trust lands should be for purposes outlined in the Enabling Act. State lands could be managed for wildlife or recreation, but compensation would have to be received for the legal beneficiaries. There are numerous opportunities to blend all uses together on a given site.

CHAIRMAN GROSFIELD asked **Mr. Clinch** if he was saying that the DSL would not use this bill to obtain a large short-term gain at the expense of the long-term value of the trust. **Mr. Clinch** said the department's management activities would be unchanged as a result of HB 263. Without the bill, increased litigation would probably result from people who wanted a different legal definition of "other worthy objects."

SENATOR JEFF WELDON, SD #35, ARLEE, asked **Mr. France** if he could explain his theory that the bill would actually invite litigation. **Mr. France** said he thought there was merit in **Mr. Clinch's** theory, but he thought the answer would go both ways. He said proponents of the bill had emphasized that the purpose of the trust was to produce revenue; he thought it held the potential for litigation when DSL recognized other uses. He thought the guiding principle on school trust lands was generation of revenue.

SENATOR TVEIT asked if state lands would be managed under the federal guidelines that state the Enabling Acts would preempt state laws and constitutions. **REPRESENTATIVE CURTISS** said that was true and other worthy objects would have to defer to the beneficiaries of the trust. However, the bill was not about selling state lands or harvesting timber. It merely reaffirmed what the Enabling Act says. People think the school trust lands are public lands and they should be managed for multiple use. The lands are unique and the entities mentioned in the Enabling Act own them.

Closing by Sponsor:

REPRESENTATIVE CURTISS said federal lands in Montana are subject to a multiple use mandate that has led to a virtual deadlock. If state school trust lands were managed under the same mandate, the result would be the same. The courts have upheld this concept.

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE

ROLL CALL DATE 3-1-95

SEN

NAME	PRESENT	ABSENT	EXCUSED
VIVIAN BROOKE	✓		
B.F. "CHRIS" CHRISTIAENS			✓
MACK COLE	✓		
WILLIAM CRISMORE	✓		
MIKE FOSTER	✓		
TOM KEATING	✓		
KEN MILLER	✓		
JEFF WELDON	✓		
BILL WILSON	✓		
LARRY TVEIT, VICE CHAIRMAN	✓		
LORENTS GROSFIELD, CHAIRMAN	✓		

SEN:1995
wp.rollcall.man
CS-09

SEELEY LAKE ELEMENTARY SCHOOL
SCHOOL DISTRICT #34
SEELEY LAKE, MONTANA 59868
JOHN W. HEBNES, SUPERINTENDENT

PHONE 406-677-2265

SENATE NATURAL RESOURCES
EXHIBIT NO. 6
DATE 3-1-95
BILL NO. HB-263

March 1, 1995

The Honorable Lorents Grosfield
Montana State Senate
Capitol Station
Helena, MT 59620

Dear Chairman Grosfield;

The Seeley Lake Elementary School is in favor of HB263 for the following reasons.

1. It would give the state land back to the beneficiary of the trust.

2. It would help establish fixed guidelines for the Department of Lands to use and manage the trust lands.

3. It would curb some inter-agency disagreements.

4. It would increase money for the trust either from present practices or from new useage.

5. It would decrease some taxes.

Because of the above reasons we would recommend a pass vote for HB263.

Sincerely,

John W. Hebnes

John W. Hebnes
Superintendent

SENATE NATURAL RESOURCES
EXHIBIT NO. 7
DATE 3-1-95
BILL NO. HB 263

HB 263

SENATE NATURAL RESOURCES COMMITTEE

MR. CHAIRMAN, FOR THE RECORD, MY NAME IS ED REGAN AND I RESIDE IN TOWNSEND. I AM A PROFESSIONAL FORESTER WITH BRAND-S LUMBER COMPANY, AND I AM ALSO A MEMBER OF THE TOWNSEND SCHOOL BOARD. I SUPPORT HB-263 IN BOTH CAPACITIES.

THERE ARE LITERALLY MILLIONS OF ACRES OF FEDERAL LAND IN MONTANA THAT ARE MANAGED UNDER MULTIPLE USE MANDATES, FOR THE BENEFIT OF THE GENERAL PUBLIC. IN RECENT YEARS, MULTIPLE USE HAS BEEN INTERPRETED TO MEAN ALMOST EVERYTHING BUT TIMBER MANAGEMENT. WE HAVE NATIONAL PARKS, WILDERNESS AREAS, NATIONAL WILDLIFE PRESERVES, AND SPECIAL MANAGEMENT AREAS LIKE THE ELKHORNS RIGHT OUTSIDE HELENA. NEARLY ALL RESOURCE DEVELOPMENT IS OFF LIMITS IN THOSE MILLIONS OF ACRES.

IN FACT, DESPITE ALL THE CLAIMS OF RAMPANT LOGGING ON OUR NATIONAL FOREST, LESS THAN 50% OF THAT ACREAGE IS DESIGNATED SUITABLE FOR TIMBER HARVEST, AND MUCH OF THAT IS ROADLESS LAND WHICH HAS NEVER BEEN LOGGED

THE SCATTERED SECTIONS OF STATE TRUST LANDS WERE ALSO DESIGNATED TO HAVE A PRIMARY USE. THAT IS TO GENERATE REVENUE FOR PUBLIC SCHOOLS. IF WE CAN HAVE MILLIONS OF ACRES WITHDRAWN FROM RESOURCE DEVELOPMENT, IS IT REALLY SO WRONG TO SET ASIDE TRUST LANDS FOR MANAGEMENT ACTIVITIES THAT GENERATE REVENUE AND JOBS? AS A FORESTER I DON'T THINK SO. AS A SCHOOL BOARD MEMBER WITH KIDS IN SCHOOL, I DON'T THINK SO.

THAT IS WHY I AM ASKING YOU TO SUPPORT HB-263 TO CLARIFY THE ROLE OF OUR STATE TRUST LANDS. THANK YOU.

ED REGAN

Montana Wilderness Association
P.O. Box 635 - Helena, MT 59624
(406) 443-7350

SENATE NATURAL RESOURCES
EXHIBIT NO. 8
DATE 3-1-95
BILL NO. H B-263

Testimony of John Gatchell, Montana Wilderness Association on HB 263
Senate Natural Resources Committee March 1, 1995

My name is John Gatchell, I represent the 2500 members of the Montana Wilderness Association. MWA is a statewide organization founded in 1958 and dedicated to the conservation of wilderness and responsible management of public lands. Our members hunt, hike, fish, ride and utilize our state's public lands, and some hold leases or make a significant part of their livlihood on state lands and contribute to the school trust.

The intent of this bill is to eliminate multiple uses from the management of state school trust lands. The rationale provided by the bill sponsor Rep. Aubyn Curtiss and the timber lobby is that the state must guard against the so-called "consequences of multiple use management" by eliminating beneficial uses and natural resource values such as watershed, fish, wildlife and outdoor recreation from even being considered as factors in the management of state lands. Rep. Curtiss predicts dire consequences "if we allow our state trust lands to have this same multiple use mandate."

In truth, the "multiple-use mandate" the timber industry is asking you to eliminate with this bill requires only that the various renewable surface resources --timber, watershed, outdoor recreation, grazing, fish and wildlife-- "be managed in a coordinated and harmonious fashion,"... " that will best meet the needs of the American people." I have enclosed the complete text of the Multiple Use-Sustained Yield Act of 1960 for your review. It is an excellent law, articulating general land management principles which have served the people of Montana and the nation for decades.

HB 263 is anti-public and anti-multiple use. This measure is so extreme, it could easily be interpreted in a court of law to force grazing leasees to pay full market value, since family ranches, like recreationists, watershed, fish and wildlife would be excluded from the new qualifications of worthy objects specifically listed in the Enabling Act. By narrowing the range of management considerations, this legislation moves the state away from land stewardship for a multitude of beneficial land values.

SENATE NATURAL RESOURCES
EXHIBIT NO. 8
DATE 3-1-95
HB-263

Over the long run, conserving water quality, healthy fisheries and wildlife populations and quality outdoor recreation opportunities maintains the intrinsic, long-term values of state forest lands.

Our members urge you to reject single use and vote no on HB 263.

EXHIBIT NO. 8
DATE 3-1-95
BILL NO. HB-263

Multiple-Use Sustained-Yield Act of 1960

Act of June 12, 1960 (P.L. 86-517, 74 Stat. 215; 16 U.S.C. 528(note), 528-531)

Sec. 1. It is the policy of the Congress that the national forests are estabished and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of this Act are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in the Act of June 4, 1897 (16 U.S.C. 475). Nothing herein shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish on the national forests. Nothing herein shall be construed so as to affect the use or administration of the mineral resources of national forest lands or to affect the use or administration of Federal lands not within national forests (16 U.S.C. 528)

Sec. 2. The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forest due consideration shall be given to the relative values of the various resources in particular areas. The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of this Act. (16 U.S.C. 529)

Sec. 3. In the effectuation of this Act the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests. (16 U.S.C. 530)

Sec. 4. As used in this Act, the following terms shall have the following meanings:

(a) "Multiple use" means the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the

productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(b) "Sustained yield of the several products and services" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land. (16 U.S.C. 531)

Sec. 5. This Act may be cited as the 'Multiple-Use Sustained-Yield Act of 1960'. (16 U.S.C. 528(note))

SENATE NATURAL RESOURCES
EXHIBIT NO. 8A
DATE 3-1-95
BILL NO. HB-263

opinions

Guest Editorial

Can't have it both ways

The Montana Wood Products Association argues that leased state lands, which are school trust lands, exist for the sole purpose of raising money for public education.

The association has found a receptive audience for that argument among some school officials. It has persuaded the Seeley Lake School District to intervene on the industry's side in a lawsuit filed by environmentalists that seeks to stop a timber sale near Yellowstone National Park.

According to the Seeley school superintendent, John Hebnes, the public wants too much from state lands. "(The lands are) supposed to be managed to make the most money for the schools," he said. "Anything that comes (beyond) that is gravy. It's not set up as a park. It's not set up for all the people."

For an industry that's always complaining that it's being picked on, the wood products association is going out of its way to make many Montanans unhappy. Bankrolling schools to intervene in timber suits doesn't have the makings of a public relations triumph, but the industry (and the schools) aren't interested in that. They're after the money.

Montana has about 5 million acres of school trust lands, received from Uncle Sam at statehood. These lands are leased to raise money for public schools. The claim that they cannot be managed for multiple-use is new, but a study conducted for the state concluded a year ago that most users of state lands were paying too little. The reason, the study said, is that the state Land Board was setting lease rates and user fees at below-market levels.

Some in state government say the constitution requires the state to maximize revenue from school lands. Last year, therefore, the Department of State Lands proposed that certain lands be leased to the highest bidder. Currently, there are provisions in the law to protect traditional users, and which weed out unusually high, or "spike" bids. If the goal is to maximize school revenue, "spike" bids would be eagerly accepted, even if they threw longtime, traditional lessees off the land.

The lands department proposal raised fears that wealthy developers or users would take over these leases and use the lands for their own purposes.

We can't have it both ways. If we must maximize school land revenue, we must abandon tradition and auction leases to the highest bidder. That could be hunting outfitters, or sportsmen's groups, or summer home-site developers, any of whom might be able to outbid traditional users, including the timber industry. That's the direction in which the MWPA argument leads.

— The Montana Standard

DATE 3-1-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: #B-274, HB-263, HB-162
HB-381

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Ed REGAN	BRAND-S LBR.	274 263	X	
DAN PITMAN	SELF	274	X	
RALPH A JACKSON	SELF	274 ~~263~~		X
John Gatchell	MT WILDERNESS ASSOC	HB 263		X
Beth Wheatley	MWF	HB 263		X
James H Emerson	S of F	HB 263		X
Steve Kelly	Friends of the WILD Swan	HB 274 HB 263		X
Bud Clinch	DSL	HB-162 HB-381	X	
John Mack	DSL	HB 162 HB 381	X	
John Hebner	Seeley Lake Elem	HB 263	X	
Cary Hegreberg	MT Wood Prod.	HB 263 HB 274	X	
Jeff Barbe	NPRC	HB 162 HB 381	X	
Alan Rollo	MWF	HB 263		X
Janet Ellis	MT Audubon	HB 274 HB 263		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

Friends of the Wild Swan
P.O. Box 5103
Swan Lake, Montana 59911

SENATE NATURAL RESOURCES
EXHIBIT NO. 9
DATE 3-1-95
BILL NO. HB 263

Montana Senator Lorents Grosfield, Chairman
Senate Natural Resources Committee
State Capitol
Helena, Montana 59620

February 28, 1995

Dear Chairman Grosfield:

On behalf of Friends of the Wild Swan, a non-profit conservation group based in Swan Lake, please accept the following comments on House Bill 263.

HB 263 can not possibly benefit the long-term health and productivity of our state forests or the state's educational system. If HB 263 is inacted by the legislature, Montana citizens, especially our youth, will be poorer. "Other worthy objects," specific language in The Enabling Act , should not be limited to only man-made objects as defined in HB 263. Wildlife habitat protection should not be eliminated as a "worthy object."

Currently, Montana Department of State Lands (DSL) operates its timber program without legal state-wide standards and guidelines.

In 1991, DSL promised Montana District Court Judge Keller of Libby that it would prepare a state-wide forest management plan and programmatic Environmental Impact Statement (EIS). In 1994, DSL again promised a District Court Judge (McKittrick) that a programmatic forest management plan, with state-wide standards and guidelines, would be produced "before" the legislature meets in January 1995. DSL lied twice. Today, no plan exists because DSL has deliberately stonewalled, expecting the 1995 Legislature to legislate weaker enviromental laws. DSL has gambled and lost.

HB 263 sends a strong message — the wrong message — to all Montanans. The message: School trust forests are nothing more than a cash cow to be exploited to reduce property tax contributions collected to fund schools.

Fish, wildlife, water quality and old-growth habitat on school trust lands will count for nothing if HB 263 is inacted.

This is no way to manage the public's forests. Who in their right mind would liquidate Montana's priceless, rapidly appreciating, god-given environmental capital without

any idea what the net benefits and costs are? You cannot know because no analysis has been done. DSL doesn't know because it hasn't completed its twice-promised state-wide EIS. Capitol assets that took thousand of years to accumulate will be sent to sawmills, where the real profit is made — not for Montana schools, but for greedy out-of-state owners. Same as it ever was.

Economic efficiency must be studied or losses to the School Trust are likely. It is wrong to assume that higher harvest volumes will automatically generate net revenue increases from DSL's timber program. DSL's accounting procedures are not adequate to determine economic efficiency.

In recent years, DSL's annual cut has ranged between 18 and 30 million board feet per year. A 50 million board feet annual target requirement (See HB 201) will lead to overcutting. Overcutting causes detrimental environmental effects that ultimately produce real costs to the State of Montana. Clean-up and habitat restoration costs can often exceed the revenue generated by cutting down wild forests. Prevention of environmental damage is the always the best, most cost efficient forest management policy.

HB 263 cannot comply with existing state and federal laws. It is fiscally unsound and environmentally destructive. <u>It will not withstand public scrutiny or judicial review. Friends of the Wild Swan opposes HB 263 in the strongest terms.</u>

Thank you for the opportunity to comment on HB 263.

Sincerely,

Steve Kelly
Friends of the Wild Swan

SENATE NATURAL RESOURCES
EXHIBIT NO. 9
DATE 2-1-95
BILL NO. HB 243

Region

Poll shows most want forests for recreation and wildlife

WASHINGTON (AP) — Most Americans want national forests used for recreation and wildlife protection rather than lumber production or other commercial ventures, according to a recent poll conducted for the U.S. Forest Service.

Results of the survey are being considered as the agency works to reorganize and streamline some services, Forest Service Chief Jack Ward Thomas says. The poll was conducted last year by a private, Florida-based consulting firm.

Environmentalists contend the Forest Service has tried to keep results of the random sample under wraps because of the support for cutbacks in logging, mining and livestock grazing on federal lands.

For example:

■ 61 percent of the respondents agree threatened and endangered species in U.S. public forests and grasslands should be protected even if that results in a negative economic impact for some.

■ 65 percent support increased regulation of commercial use of public forests. Some 38 percent said they "strongly agreed" with that statement. About 22 percent disagreed and 13 percent had no opinion.

■ 79 percent agree the long-term health of public forests should not be compromised by short-term need for natural resources

■ 36 percent agree natural resources in public forests should be made available to produce consumer goods, while 47 percent disagree.

The poll, conducted last year by a private, Florida-based consulting firm, has a margin of error of 5 percentage points.

The Forest Service used the survey to develop the internal reorganization plan proposed for congressional approval. The agency also published a so-called "reinvention document" last year that includes some of the poll's general findings but not all the details.

"The authors of the report made selective use of the findings of the poll," said Phil Pittman of the advocacy group Public Employees for Environmental Responsibility in an interview.

Jeff DeBonis, the group's executive director and a former Forest Service worker, said the omission of actual survey data from the reinvention report "demonstrates the Forest Service's well-known penchant for burying information that contradicts the emphasis of current programs.

"The real meaning of the national opinion poll is that the public wants long-term environmental health and protection — not short-term commodity needs — to be the primary purposes of national forest management," DeBonis said.

Thomas denies his agency was trying to keep the results secret, noting they were published and made available to the public last summer, separate from the reinvention report.

"I hardly see how you can publish the poll in June in its entirety and then be accused of covering it up. There's been absolutely no cover-up," Thomas said in an interview.

"If we are going to be consumer sensitive, we need to understand their views," he said of the survey.

Still, Thomas said, "It is very difficult to understand what the public was thinking about when they responded to these questions."

Chris West, vice president of the timber industry's Northwest Forestry Association in Portland, Ore., also questioned the respondents' understanding of the national forest system.

"It's obvious many people don't understand the difference between national forests and national parks," West said.

"In parts of the country where there are national forests, the public has a different understanding about the real value of forests and how they can be used for many things," he said.

Kaset International of Tampa, Fla., which conducted the poll, surveyed 500 U.S. residents last spring. About one-fourth were from the Northeast, another fourth were from the Southeast and the remaining half from the West, Midwest, Mountain and Southwest regions.

The results released were not broken down by region.

The responses "indicate that the overriding concern of United States residents is maintaining healthy public forests and grasslands" and that most believe this is "somehow tied to the quality of life in this country," the firm said in a summary of responses to the 26 statements in the survey.

"The public does not seem willing to sacrifice the health of the forests in order to produce consumer goods or increase profits to private companies," the summary said.

DATE 3-1-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: HB-274, HB-263, HB-162, HB-381

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Name	Representing	Bill No.	Check One: Support	Oppose
Jim Richard	MWF	263		✓
Richard P. Hanwood	SELF	263 274	✓	
GEORGE BAILEY	MASS	263 274	✓	
Dick Juntunen	Self	381	✓	
Deborah Smith	Sierra Club	274 381 263	✓	✓
Jim Mockler	MT Coal Council	HB162	✓	
Jim Jensen	MEIC	HB 274 HB 263		✓
LARRY Brown	self 274	381 162 263	✓	
Robert Lane	MTF.B.F. 2	263	✓	
Stan Frasier	Self	274 263		X
John Youngberg	MT Farm Bureau	263	✓	
Dallas D Erickson	SELF	263	✓	
LISA HALLENBECK	self / NWF	263		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 6, 1995, at 3:00 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Bill Wilson (D)

Members Excused: Sen. Jeff Weldon

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	None
Executive Action:	HJR 10, HB 162, HB 381, HB 80, HB 72, HB 50, HB 274, HB 263, and HB 292

EXECUTIVE ACTION ON HJR 10

Motion:

SENATOR B. F. "CHRIS" CHRISTIAENS MOVED TO CONCUR IN HJR 10.

SENATOR COLE said because they were only talking about a small amount of timber, he didn't see where the amendments would improve the bill. He said he opposed all of the amendments.

Vote:

MOTION TO ADOPT AMENDMENTS NO. hb027401.ate, NO'S. 1,3, and 4 resulted in a tie vote of 4-4. As some members were absent CHAIRMAN GROSFIELD announced that he would hold the vote open until the next meeting, scheduled for March 8, 1995, when they would continue Executive Action on HB 274.)

EXECUTIVE ACTION ON HB 263

Motion:

SENATOR COLE MOVED TO CONCUR IN HB 263.

Motion:

CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT NO. hb026301.ate AS CONTAINED IN EXHIBIT 2.

Discussion:

CHAIRMAN GROSFIELD reviewed his proposed amendments to HB 263. He said they clarify what the intent of the bill was. He said the bill was trying to codify what the department thought that the situation was with respect to the use of those funds. The bill was unclear as to what, "other worthy objects" mean. The amendment lists what those may be. The bill was trying to prevent judicial activism that would tend to legislate away from what has been the current practice.

SENATOR CRISMORE asked **Don Allen** if he thought the way the amendments were worded they would stray from the intent of the bill. He said the key word there was "include." The intent of the bill is to clarify for the courts and the State Lands Board that the listing is ab exclusive listing what they are. **CHAIRMAN GROSFIELD** said he would change that by striking "include" and insert "are limited to", in his amendment.

SENATOR BROOKE asked **Mr. Everts** where public schools were included. He answered that Line 14 says: "...held in trust for

the support of education..." That was in the bill and the list addressed "the other worthy objects."

Mr. Clinch said the list in the amendment was the same list that exists in the Enabling Act.

CHAIRMAN GROSFIELD asked where the money for the penitentiary went, because some of that land was now a state museum. **Mr. Clinch** said the money generated from those sites would go to the state penitentiary trust.

SENATOR TVEIT said the bill says the funds would go to agricultural colleges. He asked how the University of Montana or other university systems fit into that. **Mr. Clinch** said that the language that was listed in the amendment was the exact language in the Enabling Act.

SENATOR CHRISTIAENS asked **Mr. Everts** what the status was of the territorial prison that was sold to Deer Lodge County. He replied that the trust was still intact and that 7.5 acres was a producing property. He assumed the revenue off of that was going to the state penitentiary.

SENATOR TVEIT said the Enabling Act clearly states, "and the proceeds shall constitute a permanent fund to be safely invested and held by said states, and the income thereof shall be used exclusively for university purposes."

CHAIRMAN GROSFIELD said he did not want to confuse the issue. He flet the bill with or without his amended amendment was essentially identical but if his amendment would be confusing he would withdraw it.

Motion Withdrawn:

CHAIRMAN GROSFIELD MOVED TO WITHDRAW AMENDMENT NO. hb026301.ate.

Vote:

MOTION TO CONCUR IN HB 263, CARRIED, WITH SENATOR BROOKE AND SENATOR WELDON VOTING NO. (CHAIRMAN GROSFIELD will carry the bill)

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE

ROLL CALL DATE 3-6-95

SEN

NAME	PRESENT	ABSENT	EXCUSED
VIVIAN BROOKE	X		
B.F. "CHRIS" CHRISTIAENS	X		
MACK COLE	X		
WILLIAM CRISMORE	X		
MIKE FOSTER	X		
TOM KEATING	X		
KEN MILLER	X		
JEFF WELDON			X
BILL WILSON	X		
LARRY TVEIT, VICE CHAIRMAN	X		
LORENTS GROSFIELD, CHAIRMAN	X		

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SENATE STANDING COMMITTEE REPORT

March 7, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 263 (third reading copy -- blue), respectfully report that HB 263 be concurred in.

Signed: Lorents Grosfield

Senator Lorents Grosfield, Chair

Amd. Coord.

Sec. of Senate

SEN. GROSFIELD

Senator Carrying Bill

531135SC.SRF

SENATE NATURAL RESOURCES
EXHIBIT NO. 2
DATE 3-06-95
BILL NO. HB-263

Amendments to House Bill No. 263
Third Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Todd Everts
March 3, 1995

1. Page 1, line 10.
Following: "(1)"
Insert: "(a)"

2. Page 1, line 16.
Following: "Act."
Insert: "These other worthy objects are trust purposes that ~~include~~ are limited to the:
(i) university of Montana;
(ii) Montana tech of the univeristy of Montana;
(iii) other units of the university system;
(iv) state reform schools;
(v) Montana school for the deaf and blind;
(vi) capitol buildings;
(vii) Montana state university; and
(viii) state penitentiary."
(b)

DATE 3-6-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: Exec Action

HJR-10, HB-162, HB-381, HB-80, HB-72, HB-50
HB-273, HB-263, HB 292

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Name	Representing	Bill No.	Check One: Support	Oppose
Dee Rickman	Board of Oil & Gas	AB72 HB80		

VISITOR REGISTER

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